

## REMARKS/ARGUMENTS

This amendment is submitted in response to the Office Action dated May 13, 2004. After entry of this amendment, claims 11-15 will be pending in the application. Claims 11 and 15 have been amended. Reconsideration and allowance is respectfully requested in view of the amendments made and the remarks made below.

### **1. Rejections under 35 U.S.C. §112 First Paragraph**

Claims 11-15 were rejected in the Office Action under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Applicant submits that newly amended claims 11 and 15 comply with the written description requirement.

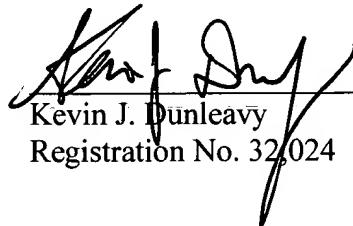
The Applicant has amended claims 11 and 15 to remedy any discrepancies with the written description. Newly amended claims 11 and 15 require "a third insulated material contacted with said tunnel oxide layer and said floating gate and disposed over said select gate." As shown in Fig. 2, and set forth in pages 7-8 of the Specification, third insulated material 212 is in contact with tunnel oxide layer 207 and floating gate 211. The third insulated material 212 is disposed over the select gate 204. Therefore, newly amended claims 11 and 15 meet the written description requirement.

The Applicant respectfully submits that newly amended claims 11 and 15 now overcome the rejection based on 35 U.S.C. §112, first paragraph and are in condition for allowance. Claims 12-14 are also in condition for allowance by virtue of their dependence upon allowable base claim 11.

**2. Conclusion**

Applicant has made an earnest effort to place this application in condition for allowance. If the Examiner feels that a telephone interview would expedite prosecution of this patent application, he is respectfully invited to telephone the undersigned at 215-599-0600.

Respectfully submitted,



\_\_\_\_\_  
Kevin J. Dunleavy  
Registration No. 32,024

Date: *July 29, 2004*

KNOBLE YOSHIDA & DUNLEAVY, LLC  
Eight Penn Center- Suite 1350  
1628 John F. Kennedy Boulevard  
Philadelphia, PA 19103  
(215) 599-0600